

AMENDED IN ASSEMBLY AUGUST 18, 2014

AMENDED IN ASSEMBLY JUNE 10, 2014

AMENDED IN ASSEMBLY JANUARY 8, 2014

AMENDED IN ASSEMBLY AUGUST 26, 2013

AMENDED IN ASSEMBLY AUGUST 12, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

SENATE BILL

No. 445

Introduced by Senator Hill

February 21, 2013

An act to amend Sections 25299.32, 25299.43, 25299.50, 25299.50.2, 25299.50.3, 25299.50.4, 25299.51, 25299.51.2, 25299.57, 25299.58, 25299.59, 25299.70, 25299.78, 25299.81, 25299.94, 25299.101, 25299.104, 25299.105, 25299.106, and 25299.107 of, ~~and~~ to add Sections 25292.05, 25299.50.6, 25299.71, 25299.80, 25299.80.5, 25299.80.6, and 25299.82 to, *and to add and repeal Sections 25299.50.7 and 25299.51.3 of*, the Health and Safety Code, relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 445, as amended, Hill. Underground storage tanks: hazardous substances: petroleum: groundwater and surface water contamination.

(1) Existing law provides for the regulation of underground storage tanks by the State Water Resources Control Board. Existing law requires underground storage tanks that are used to store hazardous substances and that are installed after January 1, 1984, to meet certain requirements,

including that the primary containment be product tight and that the tank's secondary containment meet specified standards. However, in lieu of these generally applied requirements, existing law authorizes underground storage tanks for motor vehicle fuels installed before January 1, 1997, to be designed and constructed in accordance with alternative requirements. Existing law imposes various monitoring, inspection, replacement, and upgrading requirements on underground storage tanks installed on or before January 1, 1984, and used for the storage of hazardous substances.

This bill would require the owners or operators of these 2 types of underground storage tanks to permanently close them by December 31, 2020, ~~or by December 31, 2018, if they are within 1,000 feet of a public drinking water well, unless the tanks meet specified requirements.~~ 2025, *and would authorize the board to adopt regulations to require the owner or operator to permanently close such an underground storage tank before December 31, 2025, if the underground storage tank poses a high threat to water quality or public health.*

(2) Under existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, ~~which is 1989 (the act), portions of which are~~ repealed on January 1, 2016, every owner of an underground storage tank is required to pay a storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund and the State Water Resources Control Board is authorized to expend the moneys in the fund, upon appropriation by the Legislature, for various purposes, including the payment of claims to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks, *up to \$1,500,000 per occurrence for* corrective actions undertaken by the board, a California regional water quality board, or a local agency, the cleanup and oversight of unauthorized releases at abandoned tank sites, and grants to small businesses to retrofit certain hazardous substance underground storage tanks. *Existing law requires the board to post on its Internet Web site the results of any program audit or fiscal audit within 90 days after its completion.* Existing law also specifies that certain associated rights, obligations, and authorities that apply prior to the January 1, 2016, repeal date do not terminate until the moneys in the fund are exhausted. Existing law establishes, ~~until July~~ January 1, 2016, the School District Account in the Underground Storage Tank Cleanup Fund for the payment of claims filed by a school district that takes corrective action

to clean up an unauthorized release from a petroleum underground storage tank.

This bill would extend the operation of *those portions of the act and the School District Account until January 1, 2020: 2026. The bill would require the board, by December 31, 2020, and at least once every 5 years thereafter, to commission an independent program audit and fiscal audit of the fund.* By extending the operation of the act, the bill would impose a state-mandated local program by continuing the operation of certain crimes regarding the furnishing of information under penalty of perjury. *The bill would require the state board, until January 1, 2026, to establish the Expedited Claim Pilot Project to investigate and implement methods to improve claim processing procedures to expedite the funding of claims and the completion of site cleanup. The bill would, until January 1, 2026, establish the Expedited Claim Account in the Underground Storage Tank Cleanup Fund and would, upon appropriation by the Legislature, require the moneys in the account be expended for the implementation of the pilot program. The bill would, for the 2015–16 fiscal year, transfer \$100,000,000 from the Underground Storage Tank Cleanup Fund to the Expedited Claim Account. The bill would, on or before June 1, 2015, require the state board, in collaboration with specified entities, to initiate a study to determine the cost effectiveness of issuing revenue bonds to generate proceeds to pay claims against the Underground Storage Tank Cleanup Fund and to submit a report on the study to the Legislature, on or before September 1, 2016.*

The bill would, as of the first day of the first calendar quarter commencing more than 90 days after the effective date of ~~this act~~, *the bill*, require payment of an additional \$0.006 per gallon of petroleum stored in an underground storage tank until January 1, ~~2020: 2026~~. The bill would require \$0.003 of that \$0.006 to be expended only for transfer to the School District Account, for transfer to the Petroleum Underground Storage Tank Financing Account, as specified below, or for transfer to the Site Cleanup Subaccount, which ~~this~~ *the bill* would establish in the Underground Storage Tank Cleanup Fund. The board would be authorized to expend the funds from that subaccount, upon appropriation by the Legislature, to pay for reasonable and necessary expenditures that the board, a regional board, or a local agency incurs to identify the source of surface or groundwater contamination, or to ~~remediate~~ *remediate, or to provide grants to remediate*, the harm or threat of harm to human health, safety, and the environment caused by

existing or threatened surface or groundwater contamination, ~~or for the board to make grants for the reasonable and necessary costs of actions to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination, as specified.~~ *specified.* The bill would require the board to specify the information to be included in a grant application and would authorize the board to adopt procedures to implement the grant program.

The bill would decrease the amount that the board may pay from the Underground Storage Tank Cleanup Fund for corrective action costs to \$1,000,000 per occurrence.

(3) Existing law establishes the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund in the State Treasury, ~~for expenditure by and authorizes the board to expend the moneys in the fund,~~ upon appropriation by the Legislature, for the costs of response actions to remediate the harm caused by a petroleum contamination from an underground storage tank. ~~Existing law imposes tank that meets specified requirements with regard to the expenditure of those moneys,~~ including that the site ~~meet~~ *meets* the conditions of a brownfield, as defined.

This bill would delete the requirement for the expenditure of funds from this fund that the site meet the conditions for a brownfield and would make other conforming changes.

(4) *Existing law authorizes the board to pay claims from the Underground Storage Tank Cleanup Fund of up to \$1,500,000 per occurrence, as defined, to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks. The board is also required to pay a claim of up to \$3,000 for regulatory technical assistance. Existing law requires the board to pay a claim for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank that has been the subject of a corrective action, and for which additional corrective action is required because of additionally discovered contamination from the previous release, if the person who carried out the earlier and completed corrective action was eligible for, and applied for, reimbursement pursuant to specified provisions, only to the extent that the amount of reimbursement for the earlier corrective action did not exceed the amount of \$1,500,000. Existing law prohibits the board from reimbursing a claim for corrective action costs that is received by the board more*

than 365 days after the date of issuance of a closure letter or after the issuance or activation of a letter of commitment, except as specified.

This bill would ~~prohibit~~ *decrease the maximum amount the board is authorized to pay for those corrective action claims filed on or after January 1, 2015, to \$1,000,000 and would increase the limit for regulatory technical assistance to \$5,000, plus the amount for submission of invoices using an approved electronic data system. The bill would require the board to pay a claim for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank that has been removed if the site has been the subject of a corrective action, additional corrective action is required because of additionally discovered contamination from the previous release, the person who owns the property meets specified requirements and is required to perform corrective action pursuant to those provisions because of additionally discovered contamination, and the person who carried out the earlier and completed corrective action did not apply for reimbursement, as prescribed. The bill would authorize the board from reimbursing to reimburse a claim for a corrective action costs that is received by the board more than 2 years after the date the cost was incurred or more than 2 years after the date of issuance or activation of a letter of commitment, except in certain circumstances, as specified.*

(5) Existing law specifies that the costs incurred ~~by and payable from~~ the fund for corrective action and other expenses are to be recovered by the Attorney General, upon the request of the board, *from the owner or operator of the underground storage tank or from any other responsible party.*

This bill would instead authorize the board to recover those costs.

(6) The ~~Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989~~ *act* requires an owner or operator *of an underground storage tank* to furnish, under penalty of perjury, any information on fees, financial responsibility, unauthorized releases, or corrective action as a local agency, regional board, or the state board may require.

The bill would subject to a civil penalty a person ~~that~~ *who fails or* refuses to furnish that information *or furnishes false information*. The bill would authorize the executive director of the board to permanently disqualify a person convicted of making a false statement to the board, or found civilly liable for specified conduct relating to any claim, from receiving any moneys from the fund, if the executive director makes one of a specified set of findings with regard to claimants, *contractors,*

or consultants. The bill would also impose a civil penalty upon a person that makes a misrepresentation in a claim submitted to the fund. The bill would require the Attorney General, upon the request of the board, to bring an action in superior court to impose these civil penalties and would authorize the executive director of the board to impose these civil penalties administratively.

The bill would also provide that a person who knowingly makes or causes to be made a false statement, material misrepresentation, or false certification in support of a claim is punishable by a criminal fine or imprisonment, or by both that fine and imprisonment. *By creating a new crime, the bill would impose a state-mandated local program.*

The bill would authorize the board to review the imposition of civil penalties by the executive director in a specified manner.

The bill would require that these fines and civil penalties be deposited into the fund. The bill would authorize the board to expend the moneys in the fund, *upon appropriation*, to pay for the expenditures of the board associated with investigation and enforcement under the act. The bill would also make conforming changes with regard to this enforcement.

~~By creating a new crime with regard to the filing of claims, the bill would impose a state-mandated local program.~~

The bill would also make conforming changes with regard to the amounts deposited in the fund, the purposes for which the money in the fund would be expended, and the continued existence, after the repeal of *portions of the act on January 1, 2026*, of certain authority in the act to take specified legal actions. ~~The board bill would be prohibited prohibit the board~~ from accepting claim applications for reimbursement for corrective action costs or compensation of 3rd parties that are submitted to the fund after January 1, ~~2019~~, 2025, unless the board makes a specified finding, and would prohibit the board from accepting requests for reimbursement for those purposes after July 1, ~~2019~~ 2025.

(7) Existing law requires owners and operators of underground storage tanks systems containing hazardous substances to maintain evidence of financial responsibility. Existing law also requires petroleum underground storage tanks to establish and maintain specified evidence of financial responsibility for taking corrective action and compensating 3rd parties for bodily injury and property damage arising from operating ~~an underground storage~~ the tank, except that certain owners or operators eligible for payment of a claim from the fund are deemed in compliance with those financial responsibility requirements.

This bill would allow all claimants to use the fund to establish and maintain evidence of financial responsibility for purposes of the requirements imposed upon petroleum underground storage tanks but would prohibit, on and after January 1, 2019, an owner or operator of a tank for which a permit is in effect from using the fund as a mechanism to demonstrate compliance with certain financial responsibility requirements and specified federal statutory requirements.

(8) Existing law, until January 1, 2022, requires the board to conduct a loan program to assist small businesses to upgrade, replace, or remove tanks used for the purpose of storing petroleum to meet applicable local, state, or federal standards and to conduct a grant program to assist small businesses to comply with certain requirements imposed on those tanks with regard to specified testing and containment systems and enhanced leak detection. Existing law provides that the maximum amount that the board may grant an applicant is \$50,000. *Existing law transfers specified funds from the Underground Storage Tank Cleanup Fund to the Petroleum Underground Storage Tank Financing Account and appropriates those funds for the purpose of making those grants and loans.*

This bill would expand the purposes for which the board may issue those grants and loans to include the upgrade, removal, or replacement of those tanks to meet specified requirements with regard to the permanent closure of underground storage tanks. ~~The bill tanks and~~ would increase the maximum amount that the board may grant an applicant to \$70,000, *thereby making an appropriation*. The bill would authorize the board to waive certain permitting and other requirements for a grant applicant that is ineligible for a loan pursuant to the program and will remove a tank without replacing it.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(10) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 25292.05 is added to the Health and Safety Code, to read:

25292.05. (a) On or before December 31, ~~2018~~, 2025, the owner or operator of an underground storage tank shall permanently close that underground storage tank in accordance with Section 25298 and the regulations adopted pursuant to that section, if the ~~underground storage tank is located within 1,000 feet of a public drinking water well identified pursuant to Section 25292.4 and the~~ underground storage tank meets either of the following conditions:

(1) The underground storage tank is designed and constructed in accordance with paragraph (7) of subdivision (a) of Section 25291 and does not meet the requirements of paragraphs (1) to (6), inclusive, of subdivision (a) of Section 25291.

(2) The underground storage tank was installed on or before January 1, 1984, and does not meet the requirements of paragraphs (1) to (6), inclusive, of subdivision (a) of Section 25291.

~~(b) Except as otherwise provided in subdivision (a), on or before December 31, 2020, the owner or operator of an underground storage tank shall permanently close that underground storage tank in accordance with Section 25298 and the regulations adopted pursuant to that section, if the underground storage tank is described in either paragraph (1) or (2) of subdivision (a).~~

(b) Notwithstanding subdivision (a), the board may adopt regulations to require the owner or operator of an underground storage tank to permanently close that underground storage tank before December 31, 2025, in accordance with Section 25298 and the regulations adopted pursuant to that section, if the underground storage tank meets the conditions specified in either paragraph (1) or (2) of subdivision (a) and the underground storage tank poses a high threat to water quality or public health. The board shall consult with stakeholders before adopting regulations pursuant to this subdivision.

SEC. 2. Section 25299.32 of the Health and Safety Code is amended to read:

25299.32. (a) ~~(f)~~ Except as provided in subdivision (f), a claimant who meets any of the following requirements may use the fund to establish and maintain evidence of financial responsibility:

~~(2)~~

(1) A claimant who meets the qualifications of paragraph (1) of subdivision (b) of Section 25299.52 shall be deemed in compliance with Section 25299.31 if the claimant is eligible for reimbursement from the fund pursuant to Section 25299.54, subdivision (d) of Section 25299.57, and subdivision (b) of Section 25299.58.

~~(3)~~

(2) If a claimant meets the qualifications of paragraph (2) or (3) of subdivision (b) of Section 25299.52, the level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be at least five thousand dollars (\$5,000) for each occurrence and at least five thousand dollars (\$5,000) annual aggregate coverage for taking corrective action.

~~(4)~~

(3) If a claimant meets the qualifications of paragraph (4) of subdivision (b) of Section 25299.52, the level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be at least ten thousand dollars (\$10,000) for each occurrence, and at least ten thousand dollars (\$10,000) annual aggregate coverage for taking corrective action.

(b) The level of financial responsibility required to be obtained pursuant to Section 25299.31 for each occurrence for bodily injury and property damage shall be in the amount specified by the board in the regulations adopted pursuant to Section 25299.77.

(c) The level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be in the amount specified by the board for annual aggregate coverage for both corrective action and bodily injury and property damage.

(d) The board may periodically increase the minimum level of financial responsibility specified in subdivision (a) upon its determination that private insurance is available and affordable.

(e) The changes made to this section by Chapter 1191 of the Statutes of 1994 shall apply to all claimants with claims, or portions of claims, for corrective action at sites that have not been completed, and for which reimbursement by the fund has not been fully paid by the board.

(f) (1) On and after January 1, 2019, an owner or operator of a tank for which a permit that is issued pursuant to Section 25284 is in effect shall not use the fund as a mechanism to demonstrate

1 compliance with the financial responsibility requirements of
2 Sections 25292.2 and 25299.31 and with the federal act.

3 (2) On or before December 31, 2018, an owner or operator who
4 previously used the fund as a mechanism to demonstrate
5 compliance with financial responsibility requirements shall submit,
6 to the local agency that issued the permit for the operation of the
7 tank pursuant to Section 25284, evidence of the alternative financial
8 responsibility mechanism that will be used, on and after January
9 1, 2019, to comply with Sections 25292.2 and 25299.31 and with
10 the federal act.

11 SEC. 3. Section 25299.43 of the Health and Safety Code is
12 amended to read:

13 25299.43. (a) To implement the changes to this chapter made
14 by Chapter 1191 of the Statutes of 1994, and consistent with
15 Section 25299.40, effective January 1, 1995, every owner subject
16 to Section 25299.41 shall pay a storage fee of one mill (\$0.001)
17 for each gallon of petroleum placed in an underground storage
18 tank that the person owns, in addition to the fee required by Section
19 25299.41.

20 (b) On and after January 1, 1996, the storage fee imposed under
21 subdivision (a) shall be increased by two mills (\$0.002) for each
22 gallon of petroleum placed in an underground storage tank.

23 (c) On and after January 1, 1997, the storage fee increased under
24 subdivision (b) shall be increased by an additional three mills
25 (\$0.003) for each gallon of petroleum placed in an underground
26 storage tank.

27 (d) On and after January 1, 2005, the storage fee increased under
28 subdivision (c) shall be increased by an additional one mill (\$0.001)
29 for each gallon of petroleum placed in an underground storage
30 tank.

31 (e) On and after January 1, 2006, the storage fee increased under
32 subdivision (d) shall be increased by an additional one mill
33 (\$0.001) for each gallon of petroleum placed in an underground
34 storage tank.

35 (f) On and after January 1, 2010, the storage fee increased under
36 subdivision (e) shall be increased by an additional six mills
37 (\$0.006) for each gallon of petroleum placed in an underground
38 storage tank. The increase provided for in this subdivision shall
39 be effective until January 1, 2014, at which time, the fee shall
40 revert back to the fee pursuant to subdivision (e).

(g) (1) On and after the first day of the first calendar quarter commencing *more than* 90 days after the effective date of the act adding this paragraph, the storage fee increased under subdivision (e) shall be increased by an additional six mills (\$0.006) for each gallon of petroleum placed in an underground storage tank. The increase provided for in this subdivision shall be effective until January 1, ~~2020~~, 2026, at which time the fee shall revert back to the fee established pursuant to subdivision (e).

(2) Three mills (\$0.003) of the six mills (\$0.006) for each gallon of petroleum placed in an underground storage tank collected pursuant to this subdivision shall be available for expenditure by the board only for purposes provided in subdivision (o) of Section 25299.51.

(h) The fee imposed under this section shall be paid to the State Board of Equalization under Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code in the same manner as, and consistent with, the fees imposed under Section 25299.41.

(i) The State Board of Equalization shall amend the regulations adopted under Section 25299.41 to carry out this section.

SEC. 4. Section 25299.50 of the Health and Safety Code is amended to read:

25299.50. (a) The Underground Storage Tank Cleanup Fund is hereby created in the State Treasury. The money in the fund may be expended by the board, upon appropriation by the Legislature, for purposes of this chapter. From time to time, the board may modify existing accounts or create accounts in the fund or other funds administered by the board, which the board determines are appropriate or necessary for proper administration of this chapter.

(b) All of the following amounts shall be deposited in the fund:

(1) Money appropriated by the Legislature for deposit in the fund.

(2) The fees, interest, and penalties collected pursuant to Article 5 (commencing with Section 25299.40).

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money deposited in the fund.

(4) Any money recovered by the fund pursuant to Section 25299.70.

1 (5) Any civil and criminal penalties collected by the board or
2 regional board pursuant to Section 25299.76, 25299.78, 25299.80,
3 or 25299.80.5.

4 (6) Money recovered as compensation for expenditures
5 associated with investigations or enforcement actions pursuant to
6 subdivision (j) or (n) of Section 25299.51.

7 (7) Money recovered to correct a previously overpaid
8 expenditure issued pursuant to this chapter.

9 (c) Notwithstanding subdivision (a), any funds appropriated by
10 the Legislature in the annual Budget Act for payment of a claim
11 for the costs of a corrective action in response to an unauthorized
12 release, that are encumbered for expenditure for a corrective action
13 pursuant to a letter of credit issued by the board pursuant to
14 subdivision (e) of Section 25299.57, but are subsequently not
15 expended for that corrective action claim, may be reallocated by
16 the board for payment of other claims for corrective action pursuant
17 to Section 25299.57.

18 SEC. 5. Section 25299.50.2 of the Health and Safety Code is
19 amended to read:

20 25299.50.2. (a) The Underground Storage Tank Petroleum
21 Contamination Orphan Site Cleanup Fund is hereby established
22 in the State Treasury.

23 (b) (1) Except as provided in paragraph (2), the sum of ten
24 million dollars (\$10,000,000) is hereby transferred, for each of the
25 2008–09, 2009–10, and 2010–11 fiscal years, from the
26 Underground Storage Tank Cleanup Fund to the Underground
27 Storage Tank Petroleum Contamination Orphan Site Cleanup Fund.

28 (2) Available federal moneys may be deposited in the
29 Underground Storage Tank Petroleum Contamination Orphan Site
30 Cleanup Fund. The amount transferred pursuant to paragraph (1)
31 in a fiscal year shall be reduced by the amount of federal moneys
32 deposited in the Underground Storage Tank Petroleum
33 Contamination Orphan Site Cleanup Fund in that fiscal year.

34 (c) The board may expend the moneys in the Underground
35 Storage Tank Petroleum Contamination Orphan Site Cleanup Fund,
36 upon appropriation by the Legislature, for the costs of response
37 actions to remediate the harm caused by petroleum contamination
38 at a site that meets all of the following conditions:

39 (1) The petroleum contamination is the principal source of
40 contamination at the site.

1 (2) The source of the petroleum contamination is, or was, an
2 underground storage tank.

3 (3) A financially responsible party has not been identified to
4 pay for remediation at the site.

5 (4) If the expenditure includes federal moneys deposited in the
6 Underground Storage Tank Petroleum Contamination Orphan Site
7 Cleanup Fund, the expenditure at the site is consistent with all
8 applicable requirements for expenditure of the federal moneys.

9 (d) Any funds in the Underground Storage Tank Petroleum
10 Contamination Orphan Site Cleanup Fund that are not expended
11 in the 2009–10, 2010–11, or 2011–12 fiscal years shall remain in
12 the Underground Storage Tank Petroleum Contamination Orphan
13 Site Cleanup Fund until they are encumbered.

14 (e) Notwithstanding Section 16304.1 of the Government Code,
15 a disbursement in liquidation of an encumbrance may be made
16 before or during the four years following the last day the
17 appropriation is available for encumbrance.

18 SEC. 6. Section 25299.50.3 of the Health and Safety Code is
19 amended to read:

20 25299.50.3. (a) For purposes of this section, “school district”
21 means a school district as defined in Section 80 of the Education
22 Code, or a county office of education.

23 (b) The School District Account is hereby created in the
24 Underground Storage Tank Cleanup Fund, for expenditure by the
25 board to pay a claim filed by a district that is a school district and
26 has a priority based on paragraph (2), (3), or (4) of subdivision (b)
27 of Section 25299.52. Notwithstanding Section 25299.52, in the
28 2009–10, 2010–11, and 2011–12 fiscal years, the board shall pay
29 a claim filed by a district that is a school district and has a priority
30 based on paragraph (4) of subdivision (b) of Section 25299.52
31 only from funds appropriated from the School District Account.

32 (c) (1) The sum of ten million dollars (\$10,000,000) per year
33 shall be transferred, in the 2009–10, 2010–11, and 2011–12 fiscal
34 years, from the Underground Storage Tank Cleanup Fund to the
35 School District Account, for expenditure, upon appropriation by
36 the Legislature, for the payment of claims filed by a district that
37 is a school district with a priority based on paragraph (2), (3), or
38 (4) of subdivision (b) of Section 25299.52. The ten million dollars
39 (\$10,000,000) shall be transferred to the School District Account
40 prior to allocating the remaining available funds to each priority

1 ranking in paragraphs (1), (2), (3), and (4) of subdivision (b) of
2 Section 25299.52.

3 (2) The board shall consult with the Department of Toxic
4 Substances Control in allocating the funds transferred to the School
5 District Account.

6 (3) The board shall pay claims from a school district with a
7 priority based on paragraph (4) of subdivision (b) of Section
8 25299.52 from the School District Account in the order of the date
9 of the filing of the claim application to the Underground Storage
10 Tank Cleanup Fund. In each of the fiscal years identified in
11 subdivision (b), if the board estimates that money will be available
12 in the School District Account after the board has allocated funding
13 for all submitted claims from school districts with a priority based
14 on paragraph (4) of subdivision (b) of Section 25299.52, School
15 District Account funds may be used to fund school district claims
16 with a priority based on paragraph (2) or (3) of subdivision (b) of
17 Section 25299.52.

18 (d) Funds in the School District Account that are not expended
19 in a fiscal year shall remain in the School District Account. Funds
20 remaining in the School District Account on January 1, ~~2020~~, 2026,
21 shall be transferred to the Underground Storage Tank Cleanup
22 Fund.

23 (e) The board shall include information on the expenditure of
24 the funds transferred to the School District Account, as well as the
25 amount of all claims filed by districts that are school districts and
26 the amount of reimbursements made to districts that are school
27 districts from the Underground Storage Tank Cleanup Fund, in its
28 annual report, and shall, in consultation with the Department of
29 Toxic Substances Control, estimate the amount of funds needed
30 to reimburse anticipated future claims by districts that are school
31 districts. The board shall provide a copy of this report to the State
32 Allocation Board and the State Department of Education.

33 (f) This section does not affect the priority of a district that is a
34 school district and has a priority based on paragraph (2) or (3) of
35 subdivision (b) of Section 25299.52.

36 (g) The board shall waive the requirements of paragraph (4) of
37 subdivision (d) of Section 25299.57 for a claim that is reimbursed
38 from the School District Account pursuant to this section, if the
39 superintendent of the school district receiving the reimbursement
40 certifies to the board that petroleum was not delivered on or after

1 January 1, 2003, to the tank that is the subject of the claim or that
2 the tank was removed before January 1, 2003.

3 (h) This section shall remain in effect only until January 1, ~~2020~~,
4 2026, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, ~~2020~~, 2026, deletes or extends
6 that date.

7 SEC. 7. Section 25299.50.4 of the Health and Safety Code is
8 amended to read:

9 25299.50.4. (a) It is the intent of the Legislature that the board
10 and the Department of Toxic Substances Control, using information
11 gathered and reported pursuant to subdivision (e) of Section
12 25299.50.3, propose changes to Section 25299.50.3 that may be
13 necessary to ensure that adequate funds are available to reimburse
14 anticipated future claims by districts that are school districts and
15 have a priority based on paragraph (4) of subdivision (b) of Section
16 25299.52.

17 (b) This section shall remain in effect only until July 1, 2018,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before July 1, 2018, deletes or extends that date.

20 SEC. 8. Section 25299.50.6 is added to the Health and Safety
21 Code, to read:

22 25299.50.6. (a) The Site Cleanup Subaccount is hereby
23 established in the Underground Storage Tank Cleanup Fund.

24 (b) The board may expend the funds in the Site Cleanup
25 Subaccount, upon appropriation by the Legislature, for the
26 following purposes:

27 (1) To pay for reasonable and necessary expenditures that the
28 board, a regional board, or a local agency incurs to identify the
29 source of surface or groundwater contamination.

30 (2) To pay for reasonable and necessary expenditures that the
31 board, a regional board, or a local agency incurs to remediate the
32 harm or threat of harm to human health, safety, and the
33 environment caused by existing or threatened surface or
34 groundwater contamination. The board shall consider the following
35 factors when approving expenditures for specific locations:

36 (A) The degree to which human health, safety, and the
37 environment are threatened by contamination at the location.

38 (B) Whether the location is located in a small or financially
39 disadvantaged community.

1 (C) The cost and potential environmental benefit of the
2 investigation or cleanup.

3 (D) Whether there are other potential sources of funding for the
4 investigation or cleanup.

5 (E) Any other information the board identifies as necessary for
6 consideration.

7 (3) To issue grants pursuant to this section for the reasonable
8 and necessary costs of actions to remediate the harm or threat of
9 harm to human health, safety, and the environment caused by
10 existing or threatened surface or groundwater contamination at a
11 location that meets both of the following conditions:

12 (A) The board, a regional board, or local agency requires the
13 responsible parties to undertake or contract for investigation or
14 cleanup, pursuant to an oral or written order, directive, notification,
15 or approval issued pursuant to Section 25296.10, or pursuant to a
16 cleanup and abatement order issued under Section 13304 of the
17 Water Code. The board may waive this requirement if the board
18 finds that it is infeasible for an order to be issued before initiation
19 of remediation.

20 (B) The responsible parties lack sufficient financial resources
21 to pay for the required response actions.

22 (c) At least annually, the board shall review grant applications
23 and adopt a list of applicants to be awarded grants pursuant to
24 paragraph (3) of subdivision (b). In addition to the conditions
25 specified in paragraph (3) of subdivision (b), the board shall
26 consider all of the following factors when awarding grants:

27 (1) The degree to which human health, safety, and the
28 environment are threatened by surface water or groundwater
29 contamination at the location.

30 (2) Whether the location is located in a small or financially
31 disadvantaged community.

32 (3) The cost and potential environmental benefit of the
33 investigation or cleanup.

34 (4) Whether there are other potential sources of funding for the
35 investigation or cleanup.

36 (5) Any other information the board identifies as necessary for
37 consideration.

38 (d) (1) The board shall specify the information that shall be
39 included in a grant application, consistent with this section,
40 including, but not limited to, a provision requiring the applicant

1 to make a sworn verification of the information in the application
2 to the best of the applicant's knowledge.

3 (2) The board may adopt procedures to implement this section.

4 (3) The board shall post any procedures or information
5 requirements adopted pursuant to this section on its Internet Web
6 site.

7 (e) (1) The recipient of grant moneys shall expend those funds
8 only for the reasonable costs necessary to protect human health,
9 safety, and the environment, incurred on or after the effective date
10 of the act adding this section.

11 (2) The board shall not issue a grant for any costs for which the
12 applicant has been, or will be, paid by another source.

13 (3) The board may terminate a grant and may bar the applicant
14 from receiving any future grants from the Site Cleanup Subaccount
15 if the board finds that the applicant has made a misrepresentation
16 or false claim.

17 (f) (1) Any funds in the Site Cleanup Subaccount that are not
18 expended in a fiscal year shall remain in the subaccount until they
19 are encumbered.

20 (2) Notwithstanding Section 16304.1 of the Government Code,
21 a disbursement in liquidation of an encumbrance may be made
22 before or during the four years following the last day the
23 appropriation is available for encumbrance.

24 (g) The Attorney General may recover the actual, reasonable
25 costs of investigation or cleanup undertaken pursuant to this section
26 in a civil action, upon request from the board, from any responsible
27 party. All money recovered by the Attorney General pursuant to
28 this section shall be deposited in the fund.

29 *SEC. 9. Section 25299.50.7 is added to the Health and Safety*
30 *Code, to read:*

31 *25299.50.7. (a) The Expedited Claim Account is hereby created*
32 *in the Underground Storage Tank Cleanup Fund for expenditure*
33 *by the board to pay claims that have been selected to participate*
34 *in the pilot project established by this section.*

35 *(b) The sum of one hundred million dollars (\$100,000,000) shall*
36 *be transferred in the 2015–16 fiscal year from the Underground*
37 *Storage Tank Cleanup Fund to the Expedited Claim Account for*
38 *expenditure, upon appropriation by the Legislature, for the*
39 *payment of claims pursuant to this section. Claims shall be paid*

1 *from the Expedited Claim Account until moneys in the account are*
2 *exhausted.*

3 *(c) Funds in the Expedited Claim Account that are not expended*
4 *in a fiscal year shall remain in the Expedited Claim Account. Funds*
5 *remaining in the Expedited Claim Account on January 1, 2026,*
6 *shall be transferred to the Underground Storage Tank Cleanup*
7 *Fund.*

8 *(d) The board shall establish the Expedited Claim Pilot Project*
9 *to investigate and implement methods to improve administrative*
10 *and claim processing procedures. The goals of the improvements*
11 *are to expedite the funding of claims and thus expedite the*
12 *completion of site cleanup.*

13 *(1) The board shall investigate potential methods for improving*
14 *claim processing, including, but not limited to, alternate means*
15 *of staffing for claim processing procedures, administrative*
16 *flexibility in assigning annual funding for individual claims,*
17 *expedited reviews of claim forms, increased collaboration between*
18 *fund staff, regulatory staff and claimants and their contractors,*
19 *and establishment of multiyear funding for claims.*

20 *(2) The board shall solicit fund claims from all priority rankings*
21 *for participation in the pilot project to implement potential*
22 *improvement methods. The board shall select a limited number of*
23 *claims to participate in the project.*

24 *(3) The board shall develop criteria for the selection of claims*
25 *to participate in the pilot project and, at a minimum, shall consider*
26 *the threat to human health, safety, or the environment caused by*
27 *contamination at the site that is the subject of the claim, the priority*
28 *ranking assigned to the claim pursuant to Section 25299.52, and*
29 *the progress of cleanup at the site that is the subject of the claim.*

30 *(4) The development of criteria and procedures pursuant to this*
31 *subdivision shall not be considered as regulations subject to, and*
32 *shall be exempt from, Chapter 3.5 (commencing with Section*
33 *11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

34 *(e) The board shall include information on the expenditure of*
35 *funds transferred to the Expedited Claim Account, as well as the*
36 *amount of all claims filed by claimants participating in the*
37 *Expedited Claim Pilot Project and the amount of reimbursements*
38 *made to claimants in the pilot project, in its annual report.*

39 *(f) After July 1, 2020, the board shall prepare a report analyzing*
40 *the effectiveness and efficiency of the Expedited Claim Pilot Project*

1 *in expediting the funding of claims and thus expediting completions*
2 *of site cleanups. This report shall be posted on the board's Internet*
3 *Web site.*

4 *(g) This section shall remain in effect only until January 1, 2026,*
5 *and as of that date is repealed, unless a later enacted statute, that*
6 *is enacted before January 1, 2026, deletes or extends that date.*

7 ~~SEC. 9.~~

8 *SEC. 10.* Section 25299.51 of the Health and Safety Code is
9 amended to read:

10 25299.51. The board may expend the money in the fund for
11 all the following purposes:

12 (a) In addition to the purposes specified in subdivisions (c), (d),
13 and (e), for the costs of implementing this chapter and for
14 implementing Section 25296.10 for a tank that is subject to this
15 chapter.

16 (b) To pay for the administrative costs of the State Board of
17 Equalization in collecting the fee imposed by Article 5
18 (commencing with Section 25299.40).

19 (c) To pay for the reasonable and necessary costs of corrective
20 action pursuant to Section 25299.36, up to one million ~~five hundred~~
21 ~~thousand~~ dollars ~~(\$1,500,000)~~ (\$1,000,000) per occurrence. The
22 Legislature may appropriate the money in the fund for expenditure
23 by the board, without regard to fiscal year, for prompt action in
24 response to any unauthorized release.

25 (d) To pay for the costs of an agreement for the abatement of,
26 and oversight of the abatement of, an unauthorized release of
27 hazardous substances from underground storage tanks, by a local
28 agency, as authorized by Section 25297.1 or by any other provision
29 of law, except that, for the purpose of expenditure of these funds,
30 only underground storage tanks, as defined in Section 25299.24,
31 shall be the subject of the agreement.

32 (e) To pay for the costs of cleanup and oversight of unauthorized
33 releases at abandoned tank sites. The board shall not expend more
34 than 25 percent of the total amount of money collected and
35 deposited in the fund annually for the purposes of this subdivision
36 and subdivision (h).

37 (f) To pay claims pursuant to Section 25299.57.

38 (g) To pay, upon order of the Controller, for refunds pursuant
39 to Part 26 (commencing with Section 50101) of Division 2 of the
40 Revenue and Taxation Code.

1 (h) To pay for the reasonable and necessary costs of corrective
2 action pursuant to subdivision (f) of Section 25296.10, in response
3 to an unauthorized release from an underground storage tank
4 subject to this chapter.

5 (i) To pay claims pursuant to Section 25299.58.

6 (j) To pay for expenditures by the board associated with
7 discovering violations of, and enforcing, or assisting in the
8 enforcement of, the requirements of Chapter 6.7 (commencing
9 with Section 25280) with regard to petroleum underground storage
10 tanks.

11 (k) For transfer to the Petroleum Underground Storage Tank
12 Financing Account, for purposes of Chapter 6.76 (commencing
13 with Section 25299.100).

14 (l) Upon repeal of Chapter 6.76 (commencing with Section
15 25299.100), to pay for expenditures authorized by subdivision (b)
16 of Section 25299.117 as that section reads as of December 31,
17 2021.

18 (m) For transfer to the Site Cleanup Subaccount to pay for
19 expenditures by the board pursuant to Section 25299.50.6,
20 including costs for regulatory oversight of sites funded pursuant
21 to that section.

22 (n) To pay for reasonable and necessary expenditures by the
23 board associated with discovering violations of and enforcing, or
24 assisting in the enforcement of, the requirements of this chapter,
25 including actions relating to the submission of false information
26 to the fund.

27 (o) (1) For transfer to the School District Account to pay for
28 expenditures by the board pursuant to Section 25299.50.3 or for
29 transfer pursuant to subdivision (k) or (m).

30 (2) This subdivision shall apply only to the moneys collected
31 pursuant to paragraph (2) of subdivision (g) of Section 25299.43.

32 *SEC. 11. Section 25299.51.2 of the Health and Safety Code is*
33 *amended to read:*

34 *25299.51.2. ~~Within~~ (a) On or before December 31, 2020, and*
35 *at least once every five years thereafter, the board shall*
36 *commission an independent program audit and a fiscal audit of*
37 *the fund by an independent auditor.*

38 *(b) Within 90 days of the completion of ~~any~~ the independent*
39 *program audit or fiscal audit of the fund, the board shall post the*

1 results of the program audit or fiscal audit on the board's Internet
2 Web site.

3 *SEC. 12. Section 25299.51.3 is added to the Health and Safety*
4 *Code, to read:*

5 *25299.51.3. (a) On or before June 1, 2015, the board shall*
6 *initiate a study to determine the cost-effectiveness of issuing*
7 *revenue bonds to generate proceeds to be used to pay claims*
8 *against the fund. At a minimum, the study shall include participants*
9 *from the board, the Department of Finance, the Treasurer's Office,*
10 *the California Infrastructure and Economic Development Bank,*
11 *and fund stakeholders, including claimant and industry*
12 *representatives.*

13 *(b) No later than September 1, 2016, the board shall provide*
14 *to the Legislature, pursuant to Section 9795 of the Government*
15 *Code, a report on the study.*

16 *(c) Pursuant to Section 10231.5 of the Government Code, this*
17 *section is repealed on January 1, 2021.*

18 ~~SEC. 10.~~

19 *SEC. 13. Section 25299.57 of the Health and Safety Code is*
20 *amended to read:*

21 *25299.57. (a) (1) If the board makes the determination*
22 *specified in subdivision-(d); (d) for a claim filed on or before*
23 *December 31, 2014, the board may only pay for the costs of a*
24 *corrective action that exceed the level of financial responsibility*
25 *required to be obtained pursuant to Section 25299.32, but not more*
26 *than one million five hundred thousand dollars (\$1,500,000) for*
27 *each occurrence.* ~~In~~

28 *(2) If the board makes the determination specified in subdivision*
29 *(d) for a claim filed on or after January 1, 2015, the board may*
30 *only pay for the costs of a corrective action that exceed the level*
31 *of financial responsibility required to be obtained pursuant to*
32 *Section 25299.32, but not more than one million dollars*
33 *(\$1,000,000) for each occurrence.*

34 *(3) In the case of an owner or operator who, as of January 1,*
35 *1988, was required to perform corrective action, who initiated that*
36 *corrective action in accordance with Division 7 (commencing with*
37 *Section 13000) of the Water Code or Chapter 6.7 (commencing*
38 *with Section 25280), and who is undertaking the corrective action*
39 *in compliance with waste discharge requirements or other orders*
40 *issued pursuant to Division 7 (commencing with Section 13000)*

1 of the Water Code or Chapter 6.7 (commencing with Section
2 25280), the owner or operator may apply to the board for
3 satisfaction of a claim filed pursuant to this article. ~~The~~

4 (4) *The* board shall notify claimants applying for satisfaction
5 of claims from the fund of eligibility for reimbursement in a prompt
6 and timely manner and that a letter of credit or commitment that
7 will obligate funds for reimbursement shall follow the notice of
8 eligibility as soon thereafter as possible.

9 (b) (1) For claims eligible for reimbursement pursuant to
10 subdivision (c) of Section 25299.55, the claimant shall submit the
11 actual cost of corrective action to the board, which shall either
12 approve or disapprove the costs incurred as reasonable and
13 necessary. At least 15 days before the board proposes to disapprove
14 the reimbursement of corrective action costs that have been
15 incurred on the grounds that the costs were unreasonable or
16 unnecessary, the board shall issue a notice advising the claimant
17 and the lead agency of the proposed disallowance, to allow review
18 and comment.

19 (2) The board shall not reject any actual costs of corrective
20 action in a claim solely on the basis that the invoices submitted
21 fail to sufficiently detail the actual costs incurred, if all of the
22 following apply:

23 (A) Auxiliary documentation is provided that documents to the
24 board's satisfaction that the invoice is for necessary corrective
25 action work.

26 (B) The costs of corrective action work in the claim are
27 reasonably commensurate with similar corrective action work
28 performed during the same time period covered by the invoice for
29 which reimbursement is sought.

30 (C) The invoices include a brief description of the work
31 performed, the date that the work was performed, the vendor, and
32 the amount.

33 (c) (1) For claims eligible for prepayment pursuant to
34 subdivision (c) of Section 25299.55, the claimant shall submit the
35 estimated cost of the corrective action to the board, which shall
36 approve or disapprove the reasonableness of the cost estimate.

37 (2) If the claim is for reimbursement of costs incurred pursuant
38 to a performance-based contract, Article 6.5 (commencing with
39 Section 25299.64) shall apply to that claim.

(d) Except as provided in subdivision (j), a claim specified in subdivision (a) may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, under the federal act, or under Section 6973 of Title 42 of the United States Code, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B), (C), and (F), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later. *For the purpose of this subparagraph, a claimant shall demonstrate compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280) by submitting copies of the required permits or other documentation that demonstrate compliance to the satisfaction of the board.*

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board

1 shall waive the provisions of subparagraphs (A) and (B) as a
2 condition for payment from the fund if the board finds all of the
3 following:

4 (i) The claimant was unaware of the permit requirement, and
5 upon becoming aware of the permit requirement, the claimant
6 complies with either subdivision (a) of Section 25284 or Section
7 25298 and the regulations adopted to implement those sections
8 within a reasonable period, not to exceed one year, from when the
9 claimant became aware of the permit requirement.

10 (ii) Prior to submittal of the application to the fund, the claimant
11 has complied with Section 25299.31 and has obtained and paid
12 for all permits currently required by this paragraph.

13 (iii) Prior to submittal of the application to the fund, the claimant
14 has paid all fees, interest, and penalties imposed pursuant to Article
15 5 (commencing with Section 25299.40) of this chapter and Part
16 26 (commencing with Section 50101) of Division 2 of the Revenue
17 and Taxation Code for the underground storage tank that is the
18 subject of the claim.

19 (D) (i) A claimant exempted pursuant to subparagraph (C) and
20 who has complied, on or before December 22, 1998, either with
21 subdivision (a) of Section 25284 or Section 25298 and the
22 regulations adopted to implement those sections, shall obtain a
23 level of financial responsibility twice as great as the amount that
24 the claimant is otherwise required to obtain pursuant to subdivision
25 (a) of Section 25299.32, but not less than ten thousand dollars
26 (\$10,000). All other claimants exempted pursuant to subparagraph
27 (C) shall obtain a level of financial responsibility that is four times
28 as great as the amount that the claimant is otherwise required to
29 obtain pursuant to subdivision (a) of Section 25299.32, but not
30 less than twenty thousand dollars (\$20,000).

31 (ii) The board may waive the requirements of clause (i) if the
32 claimant can demonstrate that the conditions specified in clauses
33 (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to
34 the causing of any contamination. That demonstration may be
35 made through a certification issued by the permitting agency based
36 on a site evaluation and tank tests at the time of permit application
37 or in any other manner acceptable to the board.

38 (E) All claimants who file a claim before January 1, 2008, and
39 who are not eligible for a waiver of the permit requirements
40 pursuant to applicable statutes or regulations in effect on the date

1 of the filing of the claim may resubmit a new claim pursuant to
2 subparagraph (C) on or after January 1, 2008. The board shall rank
3 all claims resubmitted pursuant to subparagraph (C) lower than
4 all claims filed before January 1, 2008, within their respective
5 priority classes specified in subdivision (b) of Section 25299.52.

6 (F) The board shall waive the provisions of subparagraph (A)
7 as a condition for payment from the fund for a claimant who filed
8 his or her claim on or after January 1, 2008, and before July 1,
9 2009, but is not eligible for a waiver of the permit requirement
10 pursuant to the regulations adopted by the board in effect on the
11 date of the filing of the claim, and who did not obtain or apply for
12 a permit required by subdivision (a) of Section 25284, if the board
13 finds all of the following:

14 (i) The claim is filed pursuant to paragraph (2) of subdivision
15 (h) of Section 25299.54 and the claim otherwise satisfies the
16 eligibility requirements of that paragraph.

17 (ii) The claimant became the owner or de facto owner of an
18 underground storage tank prior to December 22, 1998.

19 (iii) The claimant did not, and does not, operate the underground
20 storage tank.

21 (iv) Within three years after becoming the owner or de facto
22 owner of the underground storage tank but not after December 22,
23 1998, the claimant caused the underground storage tank to be
24 removed and closed in accordance with applicable law, and
25 commenced no later than December 22, 1998, to perform corrective
26 action pursuant to Section 25296.10 of this code or pursuant to
27 Division 7 (commencing with Section 13000) of the Water Code.

28 (G) The board shall rank all claims submitted pursuant to
29 subparagraph (F) in their respective priority classes specified in
30 subdivision (b) of Section 25299.52 in the order in which the claims
31 are received by the board, but subsequent to any claim filed on a
32 previous date in each of those priority classes.

33 (H) For purposes of clauses (ii) and (iv) of subparagraph (F),
34 “de facto owner of an underground storage tank” means a person
35 who purchases or otherwise acquires real property, as defined in
36 subparagraph (D) of paragraph (5) of subdivision (h) of Section
37 25299.54, and has actual possession of, and control over, an
38 underground storage tank that has been abandoned by its previous
39 owner.

1 (5) The board has approved either the costs incurred for the
2 corrective action pursuant to subdivision (b) or the estimated costs
3 for corrective action pursuant to subdivision (c).

4 (6) The claimant has paid all fees, interest, and penalties imposed
5 pursuant to Article 5 (commencing with Section ~~29299.40~~)
6 ~~25299.40~~) and Part 26 (commencing with Section 50101) of
7 Division 2 of the Revenue and Taxation ~~Code~~ Code, for the
8 underground storage tank that is the subject of the claim.

9 (e) The board shall provide the claimant, whose cost estimate
10 has been approved, a letter of commitment authorizing payment
11 of the costs from the fund.

12 (f) The claimant may submit a request for partial payment to
13 cover the costs of corrective action performed in stages, as
14 approved by the board.

15 (g) (1) A claimant who submits a claim for payment to the
16 board shall submit multiple bids for prospective costs as prescribed
17 in regulations adopted by the board pursuant to Section 25299.77.

18 (2) A claimant who submits a claim to the board for the payment
19 of professional engineering and geologic work shall submit
20 multiple proposals and fee estimates, as required by the regulations
21 adopted by the board pursuant to Section 25299.77. The claimant's
22 selection of the provider of these services is not required to be
23 based on the lowest estimated fee, if the fee estimate conforms
24 with the range of acceptable costs established by the board.

25 (3) A claimant who submits a claim for payment to the board
26 for remediation construction contracting work shall submit multiple
27 bids, as required in the regulations adopted by the board pursuant
28 to Section 25299.77.

29 (4) Paragraphs (1), (2), and (3) do not apply to a tank owned or
30 operated by a public agency if the prospective costs are for private
31 professional services within the meaning of Chapter 10
32 (commencing with Section 4525) of Division 5 of Title 1 of the
33 Government Code and those services are procured in accordance
34 with the requirements of that chapter.

35 (h) The board shall provide, upon the request of a claimant,
36 assistance to the claimant in the selection of contractors retained
37 by the claimant to conduct reimbursable work related to corrective
38 actions. The board shall develop a summary of expected costs for
39 common corrective actions. This summary of expected costs may

1 be used by claimants as a guide in the selection and supervision
2 of consultants and contractors.

3 (i) (1) To the extent funding is available, the board shall pay,
4 within 60 days from the date of receipt of an invoice of
5 expenditures, all costs specified in the work plan developed
6 pursuant to Section 25296.10, and all costs that are otherwise
7 necessary to comply with an order issued by a local, state, or
8 federal agency.

9 (2) If corrective action costs, third-party compensation costs,
10 or regulatory technical assistance costs submitted by a claimant
11 are approved for reimbursement by the board but funding is not
12 available for payment to the claimant at the time of approval, the
13 board shall reimburse carrying costs incurred by the claimant after
14 November 7, 2008, but before June 30, 2010, subject to all of the
15 following limitations:

16 (A) The reimbursement for carrying costs shall not exceed the
17 carrying costs actually incurred by the claimant from the date the
18 corrective action costs, third-party compensation costs, or
19 regulatory technical assistance costs are approved for payment by
20 the board until the date that a check for the reimbursement request
21 is issued by the Controller.

22 (B) The reimbursement for carrying costs shall not exceed an
23 amount equivalent to a maximum annual percentage rate of 7
24 percent as applied to the amount approved for reimbursement and
25 for the period calculated pursuant to subparagraph (A).

26 (C) The board shall not reimburse carrying costs that amount
27 to less than one hundred dollars (\$100) per reimbursement request.

28 (D) The board shall not reimburse carrying costs that exceed 9
29 percent of the total amount of costs approved for the reimbursement
30 to which the carrying costs apply.

31 (E) A claimant may submit a request for reimbursement of
32 carrying costs after receipt of fund reimbursement for the corrective
33 action costs, third-party compensation costs, or regulatory technical
34 assistance costs to which the carrying costs apply. Additional
35 carrying costs associated with a reimbursement request for carrying
36 costs submitted pursuant to this paragraph are not eligible for
37 payment.

38 (F) This paragraph does not apply to tank owners or operators
39 that are not described in ~~paragraphs~~ *paragraph* (1), (2), or (3) of
40 subdivision (b) of Section 25299.52.

(3) For the purposes of paragraph (2), “carrying cost” means the interest expense incurred by a claimant to acquire money to pay costs approved for reimbursement by the board but for which reimbursement is delayed because funds are unavailable.

(j) (1) The board shall pay a claim of not more than ~~three thousand dollars (\$3,000)~~ *five thousand dollars (\$5,000)* per occurrence for regulatory technical assistance to an owner or operator who is otherwise eligible for reimbursement under this ~~chapter~~ *chapter, except that reasonable and necessary regulatory technical assistance costs associated with the electronic submission of invoices to the fund using an electronic data system approved by the board shall not be subject to this limit.*

(2) For the purposes of this subdivision, regulatory technical assistance is limited to assistance from a person, other than the claimant, in the preparation and submission of a claim to the fund. Regulatory technical assistance does not include assistance in connection with proceedings under Section 25296.40, 25299.39.2, or 25299.56 or any action in court.

(k) (1) Notwithstanding any other provision of this section, the board shall pay a claim ~~for pursuant to paragraph (2) or (3) for~~ the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank that has been the subject of a completed corrective action and ~~for which additional corrective action is required because of~~ additionally discovered contamination from the previous release, ~~only if the person who carried out the earlier and completed corrective action was eligible for, and applied for, reimbursement pursuant to subdivision (b), and only to the extent that the amount of reimbursement for the earlier corrective action did not exceed the amount of reimbursement authorized by subdivision (a).~~ Reimbursement to a claimant on a reopened site shall occur when funds are available, and reimbursement commitment shall be made ahead of any new letters of commitment to be issued, as of the date of the reopening of the claim, if funding has occurred on the original claim, in which case funding shall occur at the time it ~~would have occurred under the original claim.~~ *removed, if the site has been the subject of a completed corrective action, and for which additional corrective action is required because of additionally discovered contamination from the previous release.*

1 (2) (A) *The board shall pay a claim pursuant to this paragraph*
2 *if the person who carried out the earlier and completed corrective*
3 *action was eligible for, and applied for, reimbursement pursuant*
4 *to subdivision (b).*

5 (B) *Reimbursement for additional corrective action shall be*
6 *available only to the extent that the amount of reimbursement for*
7 *the earlier corrective action did not exceed the amount of*
8 *reimbursement authorized by subdivision (a).*

9 (C) *Reimbursement to a claimant on a reopened site pursuant*
10 *to this paragraph shall occur when funds are available, and the*
11 *reimbursement commitment shall be made ahead of any new letters*
12 *of commitment to be issued, as of the date of the reopening of the*
13 *claim, if funding has occurred on the original claim.*

14 (D) *If funding has not occurred on the original claim, funding*
15 *shall occur at the time it would have occurred under the original*
16 *claim.*

17 (3) (A) *The board may reimburse a claim pursuant to this*
18 *paragraph if all of the following conditions are satisfied:*

19 (i) *The person who carried out the earlier and completed*
20 *corrective action did not apply for reimbursement pursuant to*
21 *subdivision (b).*

22 (ii) *The person who owns the property is required to perform*
23 *corrective action because of additionally discovered contamination.*

24 (iii) *The person who owns the property is the owner or operator*
25 *of an underground storage tank located on the property at the time*
26 *of application to the fund.*

27 (iv) *The person who owns the property is in compliance with*
28 *the requirements to pay the fee pursuant to Article 5 (commencing*
29 *with Section 25299.40).*

30 (v) *The person who owns the property is in compliance with the*
31 *requirements to obtain a permit pursuant to Chapter 6.7*
32 *(commencing with Section 25280).*

33 (B) *The board shall assign the person submitting a claim*
34 *pursuant to this paragraph a priority ranking consistent with the*
35 *categories described in Section 25299.52.*

36 (C) *The board shall limit reimbursement for a claim pursuant*
37 *to this paragraph to the amounts described in Section 25299.59*
38 *and for the incurred corrective action costs that are necessary and*
39 *reasonable.*

40 (2)

1 (4) For purposes of this subdivision, a corrective action is
2 completed when the local agency or regional board with
3 jurisdiction over the site or the board issues a closure letter pursuant
4 to subdivision (g) of Section 25296.10.

5 (l) (1) Except as provided in subdivision (m), claims for
6 reimbursement of corrective action costs that are received by the
7 board more than 365 days after the date of issuance of a closure
8 letter issued pursuant to subdivision (g) of Section 25296.10 or
9 after the issuance or activation of a letter of commitment,
10 whichever occurs later, shall not be reimbursed unless either of
11 the following applies:

12 (A) Claims for corrective action costs are submitted to the board
13 pursuant to ~~paragraph (1) of~~ subdivision (k).

14 (B) The board finds that submission within the time period
15 specified in this paragraph was beyond the claimant's reasonable
16 control, ongoing work is required for closure that will result in
17 submission of claims beyond that time period, or that under the
18 circumstances of the particular case, it would be unreasonable or
19 inequitable to impose the time period specified in this paragraph.

20 (2) This section does not limit or abrogate the rights of a
21 claimant in disputing reimbursement determinations or suspension
22 of claims.

23 (3) For cases that have been issued a closure letter pursuant to
24 subdivision (g) of Section 25296.10 prior to January 1, 2012, the
25 board shall notify claimants of the 365-day filing deadline specified
26 in paragraph (1) on or before March 31, 2012, or upon issuance
27 of a letter of commitment, whichever occurs later.

28 (m) (1) The board shall not reimburse a claim for
29 reimbursement of a corrective action cost that is received by the
30 board more than two years after the date the cost was incurred or
31 more than two years after the date of the issuance or activation of
32 a letter of commitment, whichever occurs later, except under one
33 or both of the following conditions:

34 (A) The board may reimburse a claim for a cost incurred before
35 January 1, 2015, by a claimant that has an active letter of
36 commitment on January 1, 2015, that was received by the board
37 on or before December 31, 2015, or within two years of the date
38 the cost was incurred, whichever occurs later.

39 (B) The executive director finds that submission within the time
40 period specified in this subdivision was beyond the claimant's

1 reasonable control or that, under the circumstances of the particular
2 case, it would be unreasonable or inequitable to impose the time
3 period specified in this subdivision.

4 (2) For the purposes of this subdivision, a cost is incurred on
5 the date that the task to be paid for is completed.

6 *SEC. 14. Section 25299.58 of the Health and Safety Code is*
7 *amended to read:*

8 25299.58. (a) Except as provided in subdivision (d), if the
9 board makes the determination specified in subdivision (b), the
10 board may reimburse only those costs that are related to the
11 compensation of third parties for bodily injury and property
12 damages and that exceed the level of financial responsibility
13 required to be obtained pursuant to Section 25299.32, but not more
14 than one million dollars (\$1,000,000) for each occurrence.

15 (b) A claim may be paid if the board makes all of the following
16 findings:

17 (1) There has been an unauthorized release of petroleum into
18 the environment from an underground storage tank.

19 (2) The claimant has been ordered to pay a settlement or final
20 judgment for third-party bodily injury or property damage arising
21 from operating an underground storage tank.

22 (3) The claimant has complied with Section 25299.31.

23 (4) (A) Except as provided in subparagraphs (B) and (C), the
24 claimant has complied with the permit requirements of Chapter
25 6.7 (commencing with Section 25280). A claimant shall obtain a
26 permit required by subdivision (a) of Section 25284 for the
27 underground storage tank that is the subject of the claim when the
28 claimant becomes subject to subdivision (a) of Section 25284 or
29 when the applicable local agency begins issuing permits pursuant
30 to subdivision (a) of Section 25284, whichever occurs later. *For*
31 *the purpose of this subparagraph, a claimant shall demonstrate*
32 *compliance with the permit requirements of Chapter 6.7*
33 *(commencing with Section 25280) by submitting copies of the*
34 *required permits or other documentation that demonstrates*
35 *compliance to the satisfaction of the board.*

36 (B) A claimant who acquires real property on which an
37 underground storage tank is situated and, despite the exercise of
38 reasonable diligence, was unaware of the existence of the
39 underground storage tank when the real property was acquired,
40 has obtained a permit required by subdivision (a) of Section 25284

1 for the underground storage tank that is the subject of the claim
2 within a reasonable period, not to exceed one year, from when the
3 claimant should have become aware of the existence of the
4 underground storage tank, or when the applicable local agency
5 began issuing permits pursuant to Section 25284, whichever occurs
6 later.

7 (C) All claimants who file their claim on or after January 1,
8 2008, and who do not obtain a permit required by subdivision (a)
9 of Section 25284 in accordance with subparagraph (A) or (B) may
10 seek a waiver of the requirement to obtain a permit. The board
11 shall waive the provisions of subparagraphs (A) and (B) as a
12 condition for payment from the fund if the board finds all of the
13 following:

14 (i) The claimant was unaware of the permit requirement, and
15 upon becoming aware of the permit requirement, the claimant
16 complies with subdivision (a) of Section 25284 or Section 25298
17 and the regulations adopted to implement those sections within a
18 reasonable period, not to exceed one year, from when the claimant
19 became aware of the permit requirement.

20 (ii) Prior to submittal of the application to the fund, the claimant
21 has complied with Section 25299.31 and has obtained and paid
22 for all permits currently required by this paragraph.

23 (iii) Prior to submittal of the application to the fund, the claimant
24 has paid all fees, interest, and penalties imposed pursuant to Article
25 5 (commencing with Section 25299.40) of this chapter and Part
26 26 (commencing with Section 50101) of Division 2 of the Revenue
27 and Taxation Code for the underground storage tank that is the
28 subject of the claim.

29 (D) (i) A claimant who is exempted pursuant to subparagraph
30 (C) and who has complied, on or before December 22, 1998, with
31 subdivision (a) of Section 25284 or Section 25298 and the
32 regulations adopted to implement those sections, shall obtain a
33 level of financial responsibility in an amount twice as great as the
34 amount that the claimant is otherwise required to obtain pursuant
35 to subdivision (a) of Section 25299.32, but in no event less than
36 ten thousand dollars (\$10,000). All other claimants exempted
37 pursuant to subparagraph (C) shall obtain a level of financial
38 responsibility that is four times as great as the amount that the
39 claimant is otherwise required to obtain pursuant to subdivision

1 (a) of Section 25299.32, but in no event less than twenty thousand
2 dollars (\$20,000).

3 (ii) The board may waive the requirements of clause (i) if the
4 claimant can demonstrate that the conditions specified in clauses
5 (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to
6 any contamination having been caused. The demonstration may
7 be made through a certification issued by the permitting agency
8 based on a site evaluation and tank tests at the time of permit
9 application or in any other manner as may be acceptable to the
10 board.

11 (E) All claimants who file a claim before January 1, 2008, and
12 who are not eligible for a waiver of the permit requirements
13 pursuant to applicable statutes or regulations in effect on the date
14 of the filing of the claim may resubmit a new claim pursuant to
15 subparagraph (C) on or after January 1, 2008. The board shall rank
16 all claims resubmitted pursuant to subparagraph (C) lower than
17 all claims filed before January 1, 2008, within their respective
18 priority classes specified in subdivision (b) of Section 25299.52.

19 (5) The claimant is required to undertake or contract for
20 corrective action pursuant to Section 25296.10, under the federal
21 act, or under Section 6973 of Title 42 of the United States Code,
22 or, as of January 1, 1988, the claimant has initiated corrective
23 action in accordance with Division 7 (commencing with Section
24 13000) of the Water Code or Chapter 6.7 (commencing with
25 Section 25280).

26 (6) The claimant has paid all fees, interest, and penalties imposed
27 pursuant to Article 5 (commencing with Section 29299.40) of this
28 chapter and Part 26 (commencing with Section 50101) of Division
29 2 of the Revenue and Taxation Code for the underground storage
30 tank that is the subject of the claim.

31 (c) A claimant may be reimbursed by the fund for compensation
32 of third parties for only the following:

33 (1) Medical expenses.

34 (2) Actual lost wages or business income.

35 (3) Actual expenses for remedial action to remedy the effects
36 of damage to the property of the third party caused by the
37 unauthorized release of petroleum from an underground storage
38 tank.

1 (4) The fair market value of the property rendered permanently
2 unsuitable for use by the unauthorized release of petroleum from
3 an underground storage tank.

4 (d) The board shall pay a claim submitted by a person eligible
5 to submit a claim pursuant to subdivision (e) of Section 25299.54
6 for the costs related to the compensation of third parties for bodily
7 injury and property damages that exceed the level of financial
8 responsibility required to be obtained pursuant to paragraph (2) of
9 subdivision (a) of Section 25299.32, but not more than one million
10 dollars (\$1,000,000) for each occurrence.

11 *SEC. 15. Section 25299.59 of the Health and Safety Code is*
12 *amended to read:*

13 25299.59. (a) If the board has paid out of the fund for any
14 costs of corrective action, the board shall not pay any other claim
15 out of the fund for the same costs.

16 (b) (1) Notwithstanding Sections 25299.57 and 25299.58, *for*
17 *a claim filed on or before December 31, 2014*, the board shall not
18 reimburse or authorize prepayment of any claim in an aggregate
19 amount exceeding one million five hundred thousand dollars
20 (\$1,500,000), less the minimum level of financial responsibility
21 specified in Section 25299.32, for a claim arising from the same
22 event or occurrence. If a claim exceeds one million dollars
23 (\$1,000,000) for an occurrence, the board may only reimburse
24 costs submitted pursuant to Section 25299.57 for those costs in
25 excess of one million dollars (\$1,000,000).

26 (2) *If a claim is filed on or after January 1, 2015, the board*
27 *shall not reimburse or authorize prepayment of the claim in an*
28 *aggregate amount exceeding one million dollars (\$1,000,000),*
29 *less the minimum level of financial responsibility specified in*
30 *Section 25299.32, for a claim arising from the same event or*
31 *occurrence.*

32 (c) The board may conduct an audit of any corrective action
33 claim honored pursuant to this chapter. The claimant shall
34 reimburse the state for any costs disallowed in the audit. A claimant
35 shall preserve, and make available, upon request of the board or
36 the board's designee, all records pertaining to the corrective action
37 claim for a period of three years after the final payment is made
38 to the claimant.

1 ~~SEC. 11.~~

2 *SEC. 16.* Section 25299.70 of the Health and Safety Code is
3 amended to read:

4 25299.70. (a) The board may recover any costs incurred and
5 payable from the fund pursuant to subdivisions (c), (e), (h), and
6 (n) of Section 25299.51 from the owner or operator of the
7 underground storage tank which released the petroleum and which
8 is the subject of those costs or from any other responsible party.

9 (b) The liability of an owner or operator shall be the full and
10 total costs specified in subdivision (a) if the owner or operator has
11 not complied with the requirements of Article 3 (commencing with
12 Section 25299.30) or has violated Section 25296.10 or any
13 corrective action order, ~~directive, notification~~ *directive, notification*,
14 or approval order issued pursuant to this chapter, Chapter 6.7
15 (commencing with Section 25280), or Division 7 (commencing
16 with Section 13000) of the Water Code. The liability of a
17 responsible party who is not an owner or operator shall be the full
18 and total costs specified in subdivision (a).

19 (c) The amount of costs determined pursuant to this section
20 shall be recoverable in a civil action. This section does not deprive
21 a party of any defense the party may have.

22 (d) All money recovered by the board pursuant to this section
23 shall be deposited in the fund.

24 (e) The amount of the costs constitutes a lien on the affected
25 property upon service of a copy of the notice of lien on the owner
26 and upon the recordation of a notice of lien, if the notice identifies
27 the property on which the condition was abated, the amount of the
28 lien, and the owner of record of the property, in the office of the
29 county recorder of the county in which the property is located.
30 Upon recordation, the lien shall have the same force, effect, and
31 priority as a judgment lien, except that it attaches only to the
32 property posted and described in the notice of lien, and shall
33 continue for 10 years from the time of the recording of the notice,
34 unless sooner released or otherwise discharged. Not later than 45
35 days from the date of receipt of a notice of lien, the owner may
36 petition the court for an order releasing the property from the lien
37 or reducing the amount of the lien. In that court action, the
38 governmental agency that incurred the cleanup costs shall establish
39 that the costs were reasonable and necessary. The lien may be
40 foreclosed by an action brought by the board for a money judgment.

1 ~~SEC. 12.~~

2 *SEC. 17.* Section 25299.71 is added to the Health and Safety
3 Code, to read:

4 25299.71. (a) (1) Except as provided in subdivisions (b) and
5 (c), if a person is convicted under Section 25299.80.5 or is found
6 to be civilly liable under Section 25299.78 or 25299.80, the
7 executive director of the board may permanently disqualify that
8 person from receiving any moneys from the fund. If the executive
9 director of the board determines that the disqualified person is a
10 contractor or consultant, a claimant shall not submit invoices to
11 the fund for any work performed or directed by that person.

12 (2) For purposes of this section, “contractor or consultant” means
13 a person whose professional services are engaged to perform work
14 that is the subject of a claim specified in paragraph (2) of
15 subdivision (d) of Section 25299.57.

16 (b) If the person convicted under Section 25299.80.5 or found
17 to be civilly liable under Section 25299.78 or 25299.80 is a
18 claimant, the executive director of the board may permanently
19 disqualify the claimant from further participation in the fund, with
20 respect to *only* the fund claims that are the subject of that
21 conviction under Section 25299.80.5 or that civil liability under
22 Section 25299.78 or 25299.80, *and* only if the executive director
23 makes a finding that the alleged violation is knowing, willful, or
24 intentional.

25 (c) If the person convicted under Section 25299.80.5 or found
26 to be civilly liable under Section 25299.78 or 25299.80 is a
27 ~~claimant~~ *contractor or consultant*, the executive director of the
28 board may permanently disqualify the ~~claimant~~ *contractor or*
29 *consultant* from further participation in the fund, including
30 *participation in corrective action for* fund claims that are not the
31 subject of that conviction under Section 25299.80.5 or civil liability
32 under Section 25299.78 or 25299.80, only if the executive director
33 makes one of the following findings:

34 (1) The alleged violation is knowing, willful, or intentional.

35 (2) The ~~claimant~~ *contractor or consultant* received a material
36 economic benefit from the action ~~which~~ *that* caused the violation.

37 (3) The alleged violation is chronic or the ~~claimant~~ *contractor*
38 *or consultant* is a recalcitrant violator, as determined pursuant to
39 subdivision (g) of Section 13399 of the Water Code.

(d) In addition to the requirements of subdivisions (b) and (c), in determining the extent to which a person, including, but not limited to, a claimant, *contractor, or consultant*, convicted under Section 25299.80.5 or found to be civilly liable under Section 25299.78 or 25299.80 may be disqualified from receiving any money from the fund, including the extent to which the person may be reimbursed for pending or future claims from the fund, the executive director of the board, or the court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation, the person's ability to pay, any prior history of misrepresentations by the person to the board, or local agency, any economic benefits or savings that resulted or would have resulted from the false statement, and any other matters as justice may require.

~~SEC. 13.~~

SEC. 18. Section 25299.78 of the Health and Safety Code is amended to read:

25299.78. (a) To carry out the purposes of this chapter, any authorized representative of the local agency, regional board, or board shall have the authority specified in Section 25185, with respect to any place where underground storage tanks are located, and in Section 25185.5, with respect to any real property which is within 2,000 feet of any place where underground storage tanks are located.

(b) An owner or operator shall furnish, under penalty of perjury, any information on fees imposed pursuant to Article 5 (commencing with Section 25299.40), financial responsibility, unauthorized releases, or corrective action as the local agency, regional board, or board may require.

(c) A person who fails or refuses to furnish information under subdivision (b) or furnishes false information to the fund is subject, in accordance with the requirements of subdivision (d), to civil liability of not more than ten thousand dollars (\$10,000) for each violation of this subdivision.

(d) (1) Except as provided in subdivision (2), a claimant shall not be liable under subdivision (c) unless one of the following is established by the court, if the action is brought pursuant to subdivision (e), or the executive director, if the action is brought pursuant to subdivision (f):

(A) The alleged violation is knowing, willful, or intentional.

1 (B) The claimant received a material economic benefit from the
2 action which caused the alleged violation.

3 (C) The alleged violation is chronic or that the claimant is a
4 recalcitrant violator, as determined pursuant to subdivision (g) of
5 Section 13399 of the Water Code.

6 (2) If a claimant is in violation of subdivision (c), but does not
7 meet any of the conditions specified in paragraph (1), the claimant
8 may be held liable only if the board or an authorized representative
9 of the board issues a notice to comply pursuant to Chapter 5.8
10 (commencing with Section 13399) of Division 7 of the Water Code
11 before an action is taken pursuant to subdivision (e) or (f).

12 (e) The Attorney General, upon request of the board, shall bring
13 an action in superior court to impose the civil liability specified
14 in subdivision (c).

15 (f) The executive director of the board may impose the civil
16 liability specified in subdivision (c) administratively in the same
17 manner as the executive director of the board is authorized to
18 impose civil liability pursuant to Article 2.5 (commencing with
19 Section 13323) of Chapter 5 of Division 7 of the Water Code.

20 (g) In determining the amount of any civil liability imposed
21 under this section, the executive director of the board, or the court,
22 as the case may be, shall take into account the nature,
23 circumstances, extent, and gravity of the false statement or refusal
24 or failure to furnish information, the person's ability to pay, any
25 prior history by the person of misrepresentations to or
26 noncooperation with the board or local agency, any economic
27 benefits or savings that resulted or would have resulted from the
28 false statement or refusal or failure to furnish information, and
29 other matters as justice may require.

30 (h) Remedies under this section are in addition to, and do not
31 supersede or limit, any other civil, ~~administrative~~ *administrative*,
32 or criminal remedies.

33 (i) All funds collected pursuant to this section shall be deposited
34 into the fund.

35 ~~SEC. 14.~~

36 *SEC. 19.* Section 25299.80 is added to the Health and Safety
37 Code, to read:

38 25299.80. (a) A person who makes a misrepresentation in any
39 claim, including, but not limited to, a record, report, certification,
40 application, invoice, form, or other document that is submitted to

1 the fund relating to a claim, is subject to civil liability of not more
2 than five hundred thousand dollars (\$500,000) for each violation
3 of this subdivision.

4 (b) Except as provided in subdivision (d), the Attorney General,
5 upon request of the state board, shall bring an action in superior
6 court to impose the civil liability specified in subdivision (a).

7 (c) Except as provided in subdivision (d), the executive director
8 of the board may impose the civil liability specified in subdivision
9 (a) administratively in the same manner as the executive director
10 of the board is authorized to impose civil liability pursuant to
11 Article 2.5 (commencing with Section 13323) of Chapter 5 of
12 Division 7 of the Water Code.

13 (d) If the violation by a claimant of subdivision (a) is not
14 knowing, willful, or intentional, the board or an authorized
15 representative shall first issue a notice to comply pursuant to
16 Chapter 5.8 (commencing with Section 13399) of Division 7 of
17 the Water Code before an action may be taken pursuant to
18 subdivision (b) or (c).

19 (e) In determining the amount of civil liability imposed under
20 this section, the executive director of the board, or the court, as
21 the case may be, shall take into account the nature, circumstance,
22 extent, and gravity of the violation, the person's ability to pay, any
23 prior history of misrepresentations by the person to the board or
24 local agency, any economic benefits or savings that resulted or
25 would have resulted from the false statement, and other matters
26 as justice may require.

27 (f) Remedies under this section are in addition to, and do not
28 supersede or limit, any other civil, administrative, or criminal
29 remedies.

30 (g) All money collected pursuant to this section shall be
31 deposited into the fund.

32 (h) The board shall file a complaint with any applicable licensing
33 board against any person licensed or otherwise regulated by that
34 licensing board who is found to be liable under this section.

35 ~~SEC. 15.~~

36 *SEC. 20.* Section 25299.80.5 is added to the Health and Safety
37 Code, to read:

38 25299.80.5. (a) A person who knowingly makes or causes to
39 be made any false statement, material misrepresentation, or false
40 certification in support of any claim under this chapter, including,

1 but not limited to, in an application, record, report, certification,
2 plan, invoice, form, or other document that is submitted, filed, or
3 required to be maintained under this chapter for purposes of a
4 claim, shall, upon conviction, be punished by a fine of not more
5 than ten thousand dollars (\$10,000), or by imprisonment in a county
6 jail for not more than one year, or in the state prison for 16 months,
7 ~~two~~, *two years*, or three years, or by both that fine and
8 imprisonment.

9 (b) The Attorney General, upon request of the board, may bring
10 an action in superior court to impose the criminal penalty specified
11 in subdivision (a).

12 (c) Remedies under this section are in addition to, and do not
13 supersede or limit, any other civil or criminal remedies.

14 (d) All funds collected pursuant to this section shall be deposited
15 into the fund.

16 (e) The board shall file a complaint with any applicable licensing
17 board against any person licensed or otherwise regulated by that
18 licensing board who is convicted under this section.

19 ~~SEC. 16.~~

20 *SEC. 21.* Section 25299.80.6 is added to the Health and Safety
21 Code, to read:

22 25299.80.6. An action by the executive director to impose civil
23 liability under this chapter is subject to review by the board in the
24 same manner as provided for the review by the State Water
25 Resources Control Board of actions of a regional board under
26 Section 13320 of the Water Code.

27 ~~SEC. 17.~~

28 *SEC. 22.* Section 25299.81 of the Health and Safety Code is
29 amended to read:

30 25299.81. (a) Except as provided in subdivisions (b) and (c),
31 this chapter shall remain in effect only until January 1, ~~2020~~, 2026,
32 and as of that date is repealed, unless a later enacted statute, which
33 is enacted before January 1, ~~2020~~, 2026, deletes or extends that
34 date.

35 (b) Notwithstanding subdivision (a), Article 1 (commencing
36 with Section 25299.10), Article 2 (commencing with Section
37 25299.11), and Article 4 (commencing with Section 25299.36)
38 shall not be repealed and shall remain in effect on January 1, ~~2020~~.
39 2026.

1 (c) The repeal of certain portions of this chapter does not
2 terminate any of the following rights, obligations, or authorities,
3 or any provision necessary to carry out these rights and obligations:

4 (1) The filing and payment of claims against the fund, including
5 the costs specified in subdivisions (c), (e), and (h) of Section
6 25299.51, claims filed under Section 25299.50.3, and claims for
7 commingled plumes, as specified in Article 11 (commencing with
8 Section 25299.90), until the moneys in the fund are exhausted.
9 Upon exhaustion of the fund, any remaining claims shall be invalid.

10 (2) The repayment of loans, outstanding as of January 1, ~~2020~~,
11 ~~2026~~, due and payable to the board.

12 (3) The recovery of moneys reimbursed to a claimant to which
13 the claimant is not entitled, or the resolution of any cost recovery
14 action.

15 (4) The collection of unpaid fees that are imposed pursuant to
16 Article 5 (commencing with Section 25299.40), as that article read
17 on December 31, ~~2019~~, 2025, or have become due before January
18 1, ~~2020~~, 2026, including any interest or penalties that accrue before,
19 on, or after January 1, ~~2020~~, 2026, associated with those unpaid
20 fees.

21 (5) (A) The filing of an application for funds from, and the
22 making of payments from, the Underground Storage Tank
23 Petroleum Contamination Orphan Site Cleanup Fund pursuant to
24 Section 25299.50.2, any action for the recovery of moneys paid
25 pursuant to Section 25299.50.2 to which the recipient is not
26 entitled, and the resolution of that cost recovery action.

27 (B) Upon liquidation of funds in the Underground Storage Tank
28 Petroleum Contamination Orphan Site Cleanup Fund, the obligation
29 to make a payment from the Underground Storage Tank Petroleum
30 Contamination Orphan Site Cleanup Fund is terminated.

31 (6) (A) The payment of loans and grants, consistent with the
32 terms of agreements that were effective prior to January 1, ~~2020~~,
33 ~~2026~~, from the Underground Storage Tank Cleanup Fund, pursuant
34 to this chapter or the Petroleum Underground Storage Tank
35 Financing Account pursuant to Chapter 6.76 (commencing with
36 Section 25299.100). Upon exhaustion of the Underground Storage
37 Tank Cleanup Fund, any remaining claims for payment of grants
38 or loans shall be invalid.

(B) The amount of money disbursed for grants and loans pursuant to Chapter 6.76 (commencing with Section 25299.100) shall not exceed the sum of *the* following:

(i) The amount that reverts to the Underground Storage Tank Cleanup Fund pursuant to Section 25299.111.

(ii) Amounts recovered through the repayment of loans granted pursuant to Chapter 6.76 (commencing with Section 25299.100).

(iii) The resolution of any cost recovery action filed prior to January 1, ~~2020~~, 2026, or the initiation of an action or other collection process to recover defaulted loan moneys due to the board or to recover money paid to a grant or loan recipient pursuant to Chapter 6.76 (commencing with Section 25299.100) to which the recipient is not entitled.

(7) (A) The imposition and collection of civil liability pursuant to Article 7 (commencing with Section 25299.70), as that article read on December 31, ~~2019~~, 2025.

(B) Subparagraph (A) shall not be construed as extending or modifying any applicable statute of limitations.

(d) The board shall continuously post and update on its Internet Web site, but at a minimum, annually on or before September 30, information that describes the status of the fund and shall make recommendations, when appropriate, to improve the efficiency of the program.

~~SEC. 18.~~

SEC. 23. Section 25299.82 is added to the Health and Safety Code, to read:

25299.82. To ensure that the phase out of the Underground Storage Tank Cleanup Fund program, as provided in Section 25299.81, is achieved in an orderly manner that enables owners and operators to maintain continuous coverage for financial responsibility obligations required by Sections 25292.2 and 25299.31 and the federal act, the board shall take the following actions:

(a) The board shall not accept claim applications submitted to the fund pursuant to Section 25299.57 or 25299.58 after January 1, ~~2019~~, 2025, unless the board finds that the unauthorized release that is the subject of the claim was discovered before January 1, ~~2019~~, 2025, and the submission of a claim application by that date was beyond the claimant's reasonable control.

1 (b) The board shall not accept requests for reimbursements
2 submitted to the fund pursuant to Section 25299.57 or 25299.58
3 after July 1, ~~2019~~ 2025.

4 SEC. 24. *Section 25299.94 of the Health and Safety Code is*
5 *amended to read:*

6 25299.94. (a) (1) The board may pay the cost of corrective
7 actions and third-party compensation claims that are submitted as
8 part of a joint claim *filed on or before December 31, 2014*, and
9 ~~which~~ *that* exceed the amount specified in subdivision (b), but do
10 not exceed an amount equal to one million five hundred thousand
11 dollars (\$1,500,000) per occurrence, for which an owner or operator
12 named in the joint claim is eligible for reimbursement under this
13 chapter. ~~If~~

14 (2) *If a claim from a contributing site exceeds one million dollars*
15 *(\$1,000,000) for an occurrence, the board may only reimburse*
16 *costs submitted pursuant to Section 25299.57 for those costs in*
17 *excess of one million dollars (\$1,000,000).*

18 (3) *If a joint claim is filed on or after January 1, 2015, the*
19 *board may pay the cost of corrective actions and third-party*
20 *compensation claims that are submitted as part of a joint claim*
21 *and that exceed the amount specified in subdivision (b), but do not*
22 *exceed an amount equal to one million dollars (\$1,000,000) per*
23 *occurrence, for which an owner or operator named in the joint*
24 *claim is eligible for reimbursement under this chapter.*

25 (b) For each joint claim, the board may only pay for the costs
26 of corrective action and third-party compensation claims that
27 exceed the aggregate of the levels of financial responsibility
28 required pursuant to Section 25299.32 for each owner or operator
29 named in the joint claim.

30 (c) The costs of corrective action determined eligible for
31 reimbursement shall be paid before third-party compensation
32 claims.

33 (d) Except as provided in paragraph (1) of subdivision (e),
34 reimbursement for costs of corrective action is limited to costs
35 incurred by the joint claimants after executing an agreement under
36 paragraph (7) of subdivision (a) of Section 25299.93.

37 (e) Both of the following costs of corrective action incurred at
38 a contributing site may be reimbursed in accordance with
39 subdivision (f):

(1) Costs incurred by an owner or operator before executing an agreement described in paragraph (7) of subdivision (a) of Section 25299.93.

(2) Costs relating to unauthorized releases that do not contribute to the commingled plume, but which are included in the occurrence which is the subject of the joint claim.

(f) An owner or operator may seek reimbursement of costs described in subdivision (e) by doing either of the following:

(1) Including a payment request for those corrective action costs with the claim filed under this article.

(2) Filing a claim or maintaining an existing claim under Article 6 (commencing with Section 25299.50).

(g) Any reimbursement received pursuant to subdivision (f) and any amount excluded from the payment based on the amount of financial responsibility required to be maintained shall be applied toward the limitations prescribed in subdivision (a).

(h) The board shall not reimburse a claimant or joint claimant for any eligible costs for which the claimant or joint claimant has been, or will be, compensated by another party.

~~SEC. 19:~~

SEC. 25. Section 25299.101 of the Health and Safety Code is amended to read:

25299.101. (a) The board shall conduct a loan program pursuant to this chapter, to assist small businesses in upgrading, replacing, or removing tanks to meet applicable local, state, or federal standards. Loan funds may also be used for corrective actions, as defined in Section 25299.14.

(b) The board shall also conduct a grant program, pursuant to this chapter, to assist small businesses to upgrade, remove, or replace project tanks to comply with Section 25284.1, 25292.05, 25292.4, or 41954.

~~SEC. 20:~~

SEC. 26. Section 25299.104 of the Health and Safety Code is amended to read:

25299.104. (a) The minimum amount that the board may loan an applicant is ten thousand dollars (\$10,000), and the maximum amount that the board may loan an applicant is seven hundred fifty thousand dollars (\$750,000).

(b) The term of the loan shall be for a maximum of 20 years if secured by real property, and for 10 years if not secured by real

1 property. The interest rate for loans shall be set at the rate equal
2 to one-half of the most recent general obligation bond rate obtained
3 by the office of the Treasurer at the time of the loan commitment.

4 (c) Loan funds may be used to finance up to 100 percent of the
5 costs necessary to upgrade, remove, or replace project tanks,
6 including corrective actions, to meet applicable local, state, or
7 federal standards, including, but not limited to, any design,
8 construction, monitoring, operation, or maintenance requirements
9 adopted pursuant to Section 25284.1, 25292.05, 25292.4, or 41954.

10 (d) The board may charge a loan fee to loan applicants of up to
11 2 percent of the requested loan amount. The loan fee shall be
12 deposited in the Petroleum Underground Storage Tank Financing
13 Account.

14 (e) The inoperation or repeal of this chapter pursuant to Section
15 25299.117 shall not extinguish a loan obligation and shall not
16 impair the deed of trust or other collateral made pursuant to this
17 chapter or the authority of the state to pursue appropriate action
18 for collection.

19 ~~SEC. 21.~~

20 *SEC. 27.* Section 25299.105 of the Health and Safety Code is
21 amended to read:

22 25299.105. (a) The board shall make grant funds available
23 from the Petroleum Underground Storage Tank Financing Account
24 to eligible grant applicants who meet all of the following eligibility
25 requirements:

26 (1) The grant applicant is a small business, pursuant to the
27 following requirements:

28 (A) The grant applicant meets the conditions for a small business
29 concern as defined in Section 632 of Title 15 of the United States
30 Code, and in the federal regulations adopted to implement that
31 section, as specified in Part 121 (commencing with Section
32 121.101) of Chapter I of Title 13 of the Code of Federal
33 Regulations.

34 (B) The grant applicant employs fewer than 20 full-time and
35 part-time employees, is independently owned and operated, and
36 is not dominant in its field of operation.

37 (2) The principal office of the grant applicant is domiciled in
38 the state and the officers of the grant applicant are domiciled in
39 this state.

(3) All tanks owned and operated by the grant applicant are subject to compliance with Chapter 6.7 (commencing with Section 25280) and the regulations adopted pursuant to that chapter.

(4) The facility where the project tank is located has sold at retail less than 900,000 gallons of gasoline annually for each of the two years preceding the submission of the grant application. The number of gallons sold shall be based upon taxable sales figures provided to the State Board of Equalization for that facility.

(5) Except as provided in subdivision (b), the grant applicant owns or operates a tank that is in compliance with all of the following:

(A) Section 41954.

(B) Any of the following:

(i) Section 25290.1.

(ii) Section 25290.2.

(iii) Section 25291.

(iv) Subdivisions (d) and (e) of Section 25292.

(C) Any regulation implementing the applicable sections required for compliance with subparagraphs (A) and (B).

(6) The facility where the project tank is located was legally in business retailing gasoline after January 1, 1999.

(b) The board may grant a waiver from requirements of paragraph (5) of subdivision (a) if the board finds all of the following:

(1) The grant applicant owns or operates a project tank.

(2) The project tank will be removed and will not be replaced with another tank.

(3) The grant applicant does not meet the requirements to obtain a loan pursuant to this chapter.

(c) Grant funds may only be used to pay the costs necessary to upgrade, remove, or replace project tanks to comply with Section 25284.1, 25292.05, 25292.4, 25292.5, or 41954.

~~SEC. 22.~~

SEC. 28. Section 25299.106 of the Health and Safety Code is amended to read:

25299.106. A complete grant application shall include all of the following information:

(a) Evidence of eligibility.

1 (b) The board shall develop a standard list of documents required
2 of all applicants, and may also request from individual applicants
3 additional financial and legal documents not provided on this list.

4 (c) An explanation of the actions the applicant is required to
5 take to comply with the requirements of Section 25284.1 ,
6 25292.05, 25292.4, 25292.5, or 41954.

7 (d) A detailed cost estimate of the actions that are required to
8 be completed for the project tanks to comply with applicable local,
9 state, or federal standards, if applicable.

10 (e) Any other information that the board determines to be
11 necessary to include in an application form.

12 ~~SEC. 23.~~

13 *SEC. 29.* Section 25299.107 of the Health and Safety Code is
14 amended to read:

15 25299.107. (a) The minimum amount that the board may grant
16 an applicant is three thousand dollars (\$3,000), and the maximum
17 amount that the board may grant an applicant is seventy thousand
18 dollars (\$70,000).

19 (b) Grant funds may be used to finance up to 100 percent of the
20 costs necessary to upgrade, remove, or replace project tanks to
21 comply with Section 25284.1, 25292.05, 25292.4, 25292.5, or
22 41954.

23 (c) If the board received the applicant's grant application on or
24 before April 1, 2009, grant funds may be used to reimburse up to
25 100 percent of the costs that the applicant incurred after the board
26 received the grant application to comply with the Enhanced Vapor
27 Recovery Phase II regulations.

28 (d) A person or entity is not eligible to receive more than seventy
29 thousand dollars (\$70,000) in grant funds pursuant to this chapter.

30 ~~SEC. 24.~~

31 *SEC. 30.* No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within
38 the meaning of Section 6 of Article XIII B of the California
39 Constitution.

1 ~~SEC. 25.~~

2 *SEC. 31.* This act is an urgency statute necessary for the
3 immediate preservation of the public peace, health, or safety within
4 the meaning of Article IV of the Constitution and shall go into
5 immediate effect. The facts constituting the necessity are:

6 In order to protect the health and safety of the people of the state
7 from the dangers of surface water and groundwater contamination
8 and protect the environment from hazardous substance releases,
9 it is necessary that this act take effect immediately.

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